

MARLENE G. WEINSTEIN
Chapter 7 Trustee
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Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

**FARAJOLLAH JENNATI ATAIE
and FARZANEH ATAIE,**

Debtor(s) .

**Case No. 16-41815 RLE
Chapter 7**

**TRUSTEE'S OBJECTIONS TO
DEBTORS' CLAIMS OF EXEMPT
PROPERTY**

Marlene Weinstein, Chapter 7 trustee for the above-captioned estate ("Trustee"), hereby objects to Debtors' claims of exempt property set forth on Schedule C filed June 29, 20165, with respect to the asset(s) described by Debtors and claimed exempt as follows:

1. "Cash on hand" in the amount of \$40.00 claimed exempt in that amount pursuant to C.C.P. §706.051;
2. "Checking account; Patelco Credit Union; xx4227" in the amount of \$5,200.00 claimed exempt in that amount and/or in any amount pursuant to C.C.P. §706.051;
3. "Checking account; JP Morgan Chase Bank, N.A; xx0817" in the amount of \$5.00 claimed exempt in that amount and/or in any amount pursuant to C.C.P. §706.051;

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4. "Checking account; JP Morgan Chase Bank, N.A; xx3515" for any amount pursuant to C.C.P. §706.051; and,

5. "Contra Costa Health Department; pro rated refund for cancelled business license" in the amount of \$400.00 claimed exempt in that amount and/or in any amount pursuant to C.C.P. §706.051.

The Trustee objects to debtors' claims that any and/or all of the foregoing assets are exempt based upon the Trustee's contention that C.C.P. §706.051 relates to a restriction on an earnings withholding order and the debtors' disposable earnings, and specifically to the earnings of an employee. In that regard, C.C.P. §706.011(b) defines "Earnings" as "compensation payable by an employer to an employee for period services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise." The Trustee contends that none of the foregoing assets are "earnings" as that term is defined. In fact, the Trustee is informed and believes that all, or virtually all of the foregoing assets are from operation of the debtors' business and/or from a \$10,000 buyout of their lease of the business premises.

No hearing is requested at this time. The Trustee will request a hearing and provide notice as required under Local Bankruptcy Rule 7-914(b)(1) as is appropriate upon further examination and investigation of the Debtor's assets, or will withdraw her objection to any and all of the above upon agreement of the parties and/or further order of the Court.

Dated: September 20, 2016

/s/ Marlene G. Weinstein
MARLENE G. WEINSTEIN
Chapter 7 Trustee

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare:

3 I am employed in the County of Contra Costa, State of
4 California. My business address is 1511 Sycamore Ave. Suite M-259,
5 Hercules, California 94547. I am readily familiar with the office
6 business practices for the collection and processing of
7 correspondence for mailing with the United States Postal Service
and that correspondence is deposited with the United States Postal
Service that same day in the ordinary course of business.

8 On September 20, 2016, I served the following document(s):
9 **TRUSTEE'S OBJECTIONS TO DEBTORS' CLAIMS OF EXEMPT**
10 **PROPERTY AND CERTIFICATE OF SERVICE**

11 on each party listed below in the manner or manners described below
and addressed as follows:

12 Farajollah Jennati Ataie	Farzaneh Ataie
3226 Ensenada Drive	3226 Ensenada Drive
San Ramon, CA 94583	San Ramon, CA 94583

14 Scott Jordan, Esq.
15 Dunning Law Firm
2000 Van Ness Ave., Suite 602
16 San Francisco, CA 94109

17 X BY FIRST CLASS MAIL: by placing said document(s) listed above
18 in a sealed envelope with postage fully prepaid, for
19 collection and mailing at my employer's office following
ordinary business practices, addressed to the addressee(s)
designated as set forth above.

20 X BY ECF EMAIL NOTIFICATION: by way of the court's ECF email
21 notification to the participating parties set forth below.

22 Scott Jordan, Esq.	United States Trustee
23 Dunning Law Firm	Federal Bldg. and U.S. Courthouse
2000 Van Ness Ave., Suite 602	450 Golden Gate Ave., 5th Floor,
24 San Francisco, CA 94109	Suite #05-0153
	25 San Francisco, CA 94120

26 I declare under penalty of perjury that the foregoing is true
27 and correct. Executed this on September 20, 2016, at Hercules,
California.

28 /s/ Marlene G. Weinstein
Marlene G. Weinstein